

This communication is being submitted within one month after the mailing date of the restriction requirement and, therefore, no fees should be due. However, the Assistant Commissioner is authorized to charge any fees which Applicants may have inadvertently overlooked to Deposit Account 23-1703.

IN THE CLAIMS:

Cancel claims 12-22 without prejudice.

REMARKS

I. Election/Restriction

The referenced application is a continued prosecution application ("CPA") of the national stage application of international application PCT/SE98/01383, filed July 13, 1998. A restriction requirement under 35 U.S.C. §§121 and 372 was issued in the subject CPA. It is alleged that the subject application contains the following inventions or groups of inventions which are independent and patentably distinct:

Group I: claims 1-10, drawn to a method of making and/or using a laminate, classified in class 264, subclass 82;

Group II: claims 12-18, drawn to an assembly, classified in class 206, subclass 364;

Group III: claims 19-21, drawn to a storage package with an instrument, classified in class 206, subclass 210;

Group IV: claim 22, drawn to a process for making a storage package, which may contain an instrument, classified in class 53, subclass 426; and

Group V: claims 27-42, drawn to a method of making and/or using a container, classified in class 493, subclass unknown.

With traverse, Applicants elect the invention of Group I for examination purposes.

II. Traversal of the Restriction Requirement

The claims of Groups II, III, and IV have been canceled. Applicants reserve the right to file divisional applications directed to the inventions of canceled claims 12-22.

Applicants respectfully traverse the restriction requirement as to the inventions of Groups I and V, respectively. For the following reasons, withdrawal of the restriction requirement as to the claims of Groups I and V is requested.

The Examiner alleges that the claims of Group I are directed to a method of making and/or using a laminate, and that the claims of Groups V are directed to a method of making and/or using a container. In fact, both of these groups of claims are directed to *methods of using an SiO_x-containing laminate as a barrier against ethylene oxide*. Thus, Groups I and V are linked by and share this common technical feature. Moreover, Group I represents the genus and Group V a species of the claimed invention.

Applicants submit that there would be no undue burden upon the Examiner to search and examine the claims of Groups I and V in the present application. In view of the specification, the SiO_x-containing laminate is useful as a barrier in containers. Therefore, even though the claims of Groups I and V are classified in different classes, it is reasonable to expect that a thorough search of Group I would and should include a search of Group V. As previously stated, Group V represents a species of Group I. Accordingly, economy of Patent Office resources and those of

the Applicants as well as fundamental fairness warrant the withdrawal of the restriction requirement as to the claims of Groups I and V.

Additionally, in the Office Action mailed July 3, 2001 (Paper No. 5) in the parent application, the requirement for restriction between original claims 1-10 directed to the use of a SiO_x-containing laminate as a barrier to ethylene oxide and claim 11 directed to a container formed from that laminate was withdrawn. These claims were rejoined and examined together. Original claims 1-10 correspond to Group I of the present application whereas original claim 11 corresponds to Group V. Therefore, for the same reason that the restriction between claims 1-10 and claim 11 was withdrawn, the Examiner should likewise withdraw the restriction requirement between the corresponding Groups I and V in the instant application.

In summary, the Examiner is respectfully requested to withdraw the restriction requirement as to Groups I and V and to search and examine claims 1-10 and 27-42 in the present application.

CONCLUSION

It is submitted that Applicants have completely responded to the restriction requirement. For all of the foregoing reasons, withdrawal of the restriction requirement between the claims of Groups I and V is respectfully requested.

Applicants submit that the claims are in condition for allowance, which action is earnestly solicited.

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Respectfully submitted,

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